45 p.

MT LEGISLATIVE HISTORY

Chapter 425 1989

Bill H _____ (S) 89 Original bill & hist. ✓ C

H. Committee on Business & Economic Development S. Committee on Business & Industry

Hearing Date(s)	Mar 03	✓ C	Hearing Date(s)	Jan 13	✓ C
	Mar 09	✓ C		Jan 18	✓ C
	Mar 10	✓ C		_____	___ C
	Mar 20	✓ C		_____	___ C
Date Out	Mar 20	✓ C		Jan 18	✓ C

Did this bill originate in an interim committee? ___ Yes ___ No

Committee _____ Report _____

SENATE BILL NO. 87

INTRODUCED BY RASMUSSEN

IN THE SENATE

JANUARY 9, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY.
	FIRST READING.
JANUARY 19, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
	STATEMENT OF INTENT ADOPTED.
JANUARY 20, 1989	PRINTING REPORT.
JANUARY 21, 1989	SECOND READING, DO PASS.
JANUARY 23, 1989	ENGROSSING REPORT.
JANUARY 24, 1989	THIRD READING, PASSED. AYES, 48; NOES, 0.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 20, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT.
	FIRST READING.
MARCH 7, 1989	COMMITTEE RECOMMEND BILL BE NOT CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 8, 1989	ON MOTION, TAKEN FROM ADVERSE COMMITTEE REPORT AND REREFERRED TO COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT.
MARCH 20, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 27, 1989	SECOND READING, CONCURRED IN.

MARCH 29, 1989 THIRD READING, CONCURRED IN.
AYES, 84; NOES, 7.

RETURNED TO SENATE.

IN THE SENATE

MARCH 29, 1989 RECEIVED FROM HOUSE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

Senate BILL NO. 82

INTRODUCED BY Rasmussen

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING EXCLUSION UNDER CERTAIN CONDITIONS OF A FAMILY MEMBER FROM COVERAGE UNDER A MOTOR VEHICLE LIABILITY INSURANCE POLICY; INCREASING MANDATORY PROPERTY DAMAGE COVERAGE; AMENDING SECTIONS 33-23-203, 61-6-103, AND 61-6-301, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 33-23-203, MCA, is amended to read:

"**33-23-203. Limitation of liability under motor vehicle liability policy.** (1) Unless a motor vehicle liability policy specifically provides otherwise, the limits of insurance coverage available under any such policy, including the limits of liability under uninsured motorist coverage, must be determined as follows, regardless of the number of motor vehicles insured under the policy:

(a) the limit of insurance coverage available for any one accident is the limit specified for the motor vehicle involved in the accident;

(b) if no motor vehicle insured under the policy is involved in the accident, the limit of insurance coverage available for any one accident is the highest limit of coverage specified for any one motor vehicle insured under the policy; and

(c) the limits of coverage specified for each motor vehicle insured under the policy may not be added together to determine the limit of insurance coverage available under the policy for any one accident.

(2) A motor vehicle liability policy may also provide for:

(a) the exclusion from coverage of a member of the family of the owner of the policy; and

(b) other reasonable limitations, exclusions, or reductions of coverage which are designed to prevent duplicate payments for the same element of loss."

Section 2. Section 61-6-103, MCA, is amended to read:

"**61-6-103. Motor vehicle liability policy defined.** (1) A "motor vehicle liability policy", as ~~said~~ the term is used in this part, ~~shall mean~~ means an owner's or operator's policy of liability insurance, certified as provided in 61-6-133 or 61-6-134 as proof of financial responsibility and issued, except as otherwise provided in 61-6-134, by an insurance carrier duly authorized to transact business in this state, to or for the benefit of the person named therein as insured.

(2) ~~Such~~ The owner's policy of liability insurance ~~shall~~ must:

INTRODUCED BILL SB 82

Montana Legislative Council

(a) designate by explicit description or by appropriate reference all motor vehicles with respect to which coverage is thereby to be granted; and

(b) insure the person named therein and any other person, as insured, using any ~~such~~ motor vehicle or motor vehicles with the express or implied permission of ~~such~~ the named insured, against loss from the liability imposed by law for damages arising out of the ownership, maintenance, or use of ~~such~~ the motor vehicle or motor vehicles within the United States of America or the Dominion of Canada, subject to limits exclusive of interest and costs, with respect to each ~~such~~ motor vehicle, as follows:

(i) $25,000 because of bodily injury to or death of one person in any one accident and subject to said limit for one person;

(ii) $50,000 because of bodily injury to or death of two or more persons in any one accident; and

(iii) ~~$5,000~~ $10,000 because of injury to or destruction of property of others in any one accident.

(3) ~~Such~~ An operator's policy of liability insurance ~~shall~~ must insure the person named as insured therein against loss from the liability imposed upon him by law for damages arising out of the use by him of any motor vehicle not owned by him, within the same territorial limits and subject to the same limits of liability as are set forth

above with respect to ~~an owner's~~ the operator's policy of liability insurance.

(4) ~~Such~~ A motor vehicle liability policy ~~shall~~ must state the name and address of the named insured, the coverage afforded by the policy, the premium charged therefor, the policy period, and the limits of liability and ~~shall~~ contain an agreement or be endorsed that insurance is provided thereunder in accordance with the coverage defined in this part as respects bodily injury and death or property damage, or both, and is subject to all the provisions of this part.

(5) ~~Such~~ A motor vehicle liability policy need not insure any liability under any workers' compensation law or any liability on account of bodily injury to or death of an employee of the insured while engaged in the employment, other than domestic, of the insured or while engaged in the operation, maintenance, or repair of ~~any--such~~ a motor vehicle or any liability for damage to property owned by, rented to, in charge of, or transported by the insured.

(6) ~~Every~~ A motor vehicle liability policy ~~shall be~~ is subject to the following provisions, which need not be contained therein:

(a) The liability of the insurance carrier with respect to the insurance required by this part ~~shall--become~~ becomes absolute whenever injury or damage covered by ~~said~~

the motor vehicle liability policy occurs. ~~Said~~ The policy may not be canceled or annulled as to ~~such~~ the liability by any agreement between the insurance carrier and the insured after the occurrence of the injury or damage. No statement made by the insured or on his behalf and no violation of ~~said~~ the policy ~~shall~~ may defeat or void ~~said~~ the policy.

(b) The satisfaction by the insured of a judgment for ~~such~~ the injury or damage ~~shall~~ may not be a condition precedent to the right or duty of the insurance carrier to make payment on account of ~~such~~ the injury or damage.

(c) The insurance carrier ~~shall have~~ has the right to settle any claim covered by the policy, and if ~~such~~ the settlement is made in good faith, the amount ~~thereof--shall~~ be is deductible from the limits of liability specified in subsection (2)(b)~~of this section~~.

(d) The policy, the written application therefor, if any, and any rider or endorsement which does not conflict with the provisions of ~~the~~ this part ~~shall~~ constitute the entire contract between the parties.

(7) ~~No~~ A motor vehicle policy ~~shall be~~ is not subject to cancellation, termination, nonrenewal, or premium increase, due to injury or damage incurred by the insured or operator unless the insured or operator ~~be~~ is found to have violated a traffic law or ordinance of the state or a city, ~~be~~ is found negligent or contributorily negligent in a court

of law, or by the arbitration proceedings contained in chapter 5 of Title 27, or pays damages to another party, whether by settlement or otherwise. In no event may a premium be increased during the term of the policy unless there is a change in exposure.

(8) Any policy which grants the coverage required for a motor vehicle liability policy may also grant any lawful coverage in excess of or in addition to the coverage specified for a motor vehicle liability policy, and ~~such~~ the excess or additional coverage ~~shall~~ is not ~~be~~ subject to the provisions of this part. With respect to a policy which grants ~~such~~ the excess or additional coverage, the term "motor vehicle liability policy" ~~shall apply~~ applies only to that part of the coverage which is required by this section.

(9) Any motor vehicle liability policy may provide that the insured shall reimburse the insurance carrier for any payment the insurance carrier would not have been obligated to make under the terms of the policy except for the provisions of this part.

(10) Any motor vehicle liability policy may provide for the prorating of the insurance thereunder with other valid and collectable insurance.

(11) The requirements for a motor vehicle liability policy may be fulfilled by the policies of one or more insurance carriers, which policies together meet such

requirements.

(12) Any binder issued pending the issuance of a motor vehicle liability policy ~~shall be deemed to fulfill~~ fulfills the requirements for such a policy.

(13) A reduced limits endorsement ~~shall~~ may not be issued by any company to be attached to any policy issued in compliance with this section.

(14) An insurer is not required to insure liability incurred by a member of the family of the owner of the motor vehicle liability policy if the driver's license of that family member has been revoked, suspended, or canceled according to the provisions of Title 61, chapter 5, part 2."

Section 3. Section 61-6-301, MCA, is amended to read:

"**61-6-301. Required motor vehicle insurance.** (1) ~~Every~~ Except as provided in 61-6-103(14), an owner of a motor vehicle which is registered and operated in Montana by the owner or with his permission shall continuously provide insurance against loss resulting from liability imposed by law for bodily injury or death or damage to property suffered by any person caused by maintenance or use of a motor vehicle, as defined in 61-1-102, in an amount not less than that required by 61-6-103, or a certificate of self-insurance issued in accordance with 61-6-143.

(2) A motor vehicle owner who prefers to post an indemnity bond with the department in lieu of obtaining a

policy of liability insurance may do so. The bond ~~shall~~ must guarantee that any loss resulting from liability imposed by law for bodily injury, death, or damage to property suffered by any person caused by accident and arising out of the operation, maintenance, and use of the motor vehicle sought to be registered ~~shall~~ must be paid within 30 days after final judgment is entered establishing ~~such~~ the liability. The indemnity bond ~~shall~~ must guarantee payment in the amount provided for insurance under subsection (1).

(3) Any bond given in connection with this section is a continuing instrument and ~~shall~~ must cover the period for which the motor vehicle is to be registered and operated. ~~Such~~ The bond ~~shall~~ must be on a form approved by the commissioner of insurance and must be with a surety company authorized to do business in the state."

Section 4. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Section 5. Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

Section 6. Effective date -- applicability. [This act] is effective July 1, 1990, and applies to motor vehicle liability insurance policies issued, renewed, extended, or

reinstated after June 30, 1990.

-End-

APPROVED BY COMM. ON
BUSINESS & INDUSTRY

STATEMENT OF INTENT

SENATE BILL 87

Senate Business and Industry Committee

By amending section 61-6-301, MCA, it is the intent of the legislature to expressly permit named driver exclusions in mandatory motor vehicle insurance policies for family members of the policy holder. It is the finding of the legislature that the prohibition against named driver exclusions in the context of the family has the result, in effect, of denying coverage to families who have found their insurance premiums to double or triple due to the Montana supreme court's decision in Iowa Mutual Insurance Company v. Davis, 752 P.2d 166 (1988). In that case, the court held that mandatory liability coverage requirements, as a matter of public policy, prohibited exclusion of a named driver or named drivers from coverage under motor vehicle liability policies.

SECOND READING
SB 87

MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS AND INDUSTRY

Call to Order: By Chairman Gene Thayer, on January 13, 1989, at 10:00 a.m.

ROLL CALL

Members Present: Chairman Thayer, Vice Chairman Meyer, Senator Boylan, Senator Noble, Senator Williams, Senator Hager, Senator Mclane, Senator Weeding, Senator Lynch.

Members Excused: None

Members Absent: None

Staff Present: Mary McCue, Legislative Council

Announcements/Discussion: Governor Stephen's State-Of-The-State Address at 11:30 a.m. in the House Chambers.

HEARING ON SENATE BILL 87

Presentation and Opening Statement by Sponsor: Senator Rasmussen, District 22, stated SB 87 dealt with a specific area of out Motor Vehicle Liability Insurance Laws. One of his constituents, Mrs. Maynard, brought the family exclusion problem to his attention. Mrs. Maynard reportedly was informed she could not exclude a family member from her insurance policy as long as they shared a residence.

SB 87, essentially has been designed to allow exclusion under certain conditions of a family member. Page 2, line 9 was termed the essence of the bill in that allowance for exclusion of a family member was introduced.

Page 3, line 18 was cited as changing $5000.00 to $10,000.00 for destruction of property in any one accident. Senator Rasmussen said the State Auditor's office had suggested this change for updating language.

List of Testifying Proponents and What Group They Represent:

Mary Maynard - Montana Families

Oliver Goe - State Farm Insurance
Jacqueline Terrell - American Insurance Association
Gene Phillips - National Association of Independent Insurers
Representative Wm. Boharski - District 4, Kalispell
Roger McGlenn - Independent Insurance Agents
Ron Ashabraner - State Farm Insurance
Wally Jewell - Montana Magistrates of Montana

List of Testifying Opponents and What Group They Represent:

None

Testimony:
Proponents:

Mrs. Maynard stated that last summer her insurance company told her they were cancelling her car insurance. Their reason being, her son Jim, who was 24, had received four traffic tickets and was rated as a high risk. To avoid paying a new insurance company premiums for a high risk driver, Mrs. Maynard said she tried to exclude the son from her insurance policy. She said the insurance company then informed her she could not exclude a family member of the same residence. Mrs. Maynard said her son had to move out so she could afford insurance for herself and her 16 year old daughter.

Oliver Goe said he was an attorney representing State Farm Insurance. He stated support of the bill with proposed amendments. Goe said he believed there were strong public policy reasons for supporting the amendment, of exclusion and for changing the statutes as they currently read. He also cited support on behalf of Consumer's economic needs in addition to protecting the public traveling on Montana's Highways.

He said, from the public's standpoint, I think it is important for the Committee to be aware of the decision in Iowa Mutual Insurance Company vs. Davis, which was a decision in the Supreme court in March of 1988. (SEE EXHIBIT #1). In that decision the Supreme Court held that the Mandatory Liability Coverage Requirement prohibited exclusion of name drivers from a policy. He said he thought the effect of the decision was contrary to Legislature's intent as well as the Court's. He

cited the immediate result of the decision. It was a large number of smaller insurance companies that either quit writing or substantially increased premium costs. Consequently, a larger number of uninsured vehicles were being driven.

Goe expressed a concern over some potential problems in the bill. He said he did not feel Section 1 was necessary. He cited Section 33-23-203 as an anti-stacking provision contained within the code as it is currently written. Subsection 2b prevents "other reasonable limitations, exclusions or reductions of coverage which are designed to prevent duplicate payments for the same element of loss." Therefore, Section 1, subsection 2a is not necessary.

He next cited Section 2, which amends 61-6-103. Specifically applicable to what we are talking about here is subsection 14 page 7 of the proposed amendments. He said there were two potential problems. Number one allows for an exclusion for family members, or in those situations where that persons license has been revoked, suspended or cancelled. "That language is not broad enough. It probably doesn't cover 90% of the situations that this proposed amendment is needed to address., . . . What is really needed is the ability to exclude a particular family member who is a high risk family member but still has a license., . . Lastly, I would indicate that the amendment should not be to Section 61-6-103, but needs to be 61-6-301. The Montana Supreme Court, when it was deciding the Iowa case, strongly indicated that the policies in the State of Montana were mandatory coverage as found in 61-6-301,. . . I think 61-6-301 needs to state, verbatim, that a family has the option to exclude a family member from a Motor Vehicle Liability Policy."

Jacqueline Terrell said she was an attorney representing the American Insurance Association. We support the concept of this bill as outlined by Mr. Goe. We also concur in Mr. Goe's suggestions for amendments. "Our primary concern is with the very strong language of the Iowa Mutual Decision which would indicate that the statute needs to be amended with a specific statement of public policy. Also a specific statement of exclusion in Section 61-6-303. The Montana Supreme Court Decision specifically refers to that section as the appropriate section to identify exclusions. We believe that section should also be amended in this bill."

Gene Phillips representing the National Association of Independent Insurers stated, "we concur with the position taken by the previous two supporters of the bill and support the bill with those proposedamendments."

Testimony:

Opponents:
Representative Boharski stated he was not there to oppose the legislation but wanted to stress a potential problem. He expressed a desire to the committee's intent concerning the proposed legislation. He also stressed the original intent of the Montana Legislature when it passed the Mandatory Liability Insurance Law in 1979, was to require all drivers on the road be licensed drivers. "A possible situation that could arise out of changing this could be a minor family member being involved in an accident. If, for instance, an excluded minor must drive in an emergency situation and had an accident, he is also in violation of the law set forth in 1979."

Questions From Committee Members: Senator Weeding asked, "If a person could no longer sign a rider of exclusion from coverage? Now, is that no longer in effect? Are we talking about that sort of thing?" Ron Ashabraner, of the State Farm Mutual Auto Insurance stated, he thought there was some confusion as to what the bill intended to do. Previous to the decision handed down by the Supreme Court the consumer in Montana, found it desirable to insure a specific driver to an assigned vehicle. This was especially true in cases involving ownership of several vehicles being insured. The insured elected to insure one vehicle for the high risk driver, leaving the rest of the vehicles and insured parties a more desirable premium rate.

Because of the terminology in the Mandatory Insurance Laws in many states there were Supreme Court Decisions which said you could no longer single out drivers and vehicles. This decision pertains to residents of a household on a long-term basis, not a temporary visit.

Senator Noble asked Ashabraner, "If the law was such that you can't write an exclusion in a family household or any business?" Ashabraner said, "No you can't, since the decision was handed down you can't exclude any one directly involved from any policy."

Senator Thayer asked Ashabraner, "Are we mixing apples and oranges here? Senator Weeding and Senator Noble were talking about business type policies and we are talking about family type policies. Is there a difference?" Mr. Ashabraner said, "Yes, I think there is."

Senator Williams asked, "Which Supreme Court decision are we concerned with, who handed it down?" Jacqueline Terrell said, "It was the Montana Supreme court. The case name is Iowa Mutual Insurance v. Davis. It was referred to the Montana Supreme court by the Federal District Court. It is cited in 752 Pacific Reporter 166 and was decided in March of 1988. The legal problem that revolves around this particular decision is that the Montana Supreme Court had earlier stated the driver exclusion was permissible in Montana. The Mandatory Liability Insurance Statute was enacted to validate that earlier ruling. Now we need a specific statutory exclusion."

Senator Williams asked Terrell, "With the amendments, do you feel the bill would address the issue to the Court's satisfaction?" She said, "I would hesitate to make that guarantee. I think, however, with that sort of amendment, the statute would certainly fare better."

Senator Thayer asked Senator Rasmussen whether or not he could concur these amendments? "Maybe you can just answer in your closing."

Senator Thayer asked Senator Rasmussen, "In titling the bill, wasn't your intent obviously aimed at protecting a family type policy? After hearing the testimony it seems there is no distinction between family or business. Would it be your intent to broaden the title to include business?" He stated, "The intent of the bill was family policies only." Mary McCue clarified the fact that the title was probably too narrow anyway.

Chairman Thayer asked Mr. Goe to please stay after adjournment and confer with Mary and Senator Rasmussen in regard to his proposed amendments.

Closing by Sponsor: Senator Rasmussen stated that the hearing definitely pointed out the bill needed more work. He also expressed regret over confusion caused by the Supreme Court Ruling. With that, "I will close and hope we can meet the bill's needs through the proposed amendments."

ADJOURNMENT

Adjournment At: 10:57 a.m.

SENATOR GENE THAYER, Chairman

GT/ct

senmin.113

ROLL CALL

BUSINESS & INDUSTRY COMMITTEE

DATE 1-13-89

51st LEGISLATIVE SESSION 1989

NAME	PRESENT	ABSENT	EXCUSED
SENATOR DARRYL MEYER	✓		
SENATOR PAUL BOYLAN	✓		
SENATOR JERRY NOBLE	✓		
SENATOR BOB WILLIAMS	✓		
SENATOR TOM HAGER	✓		
SENATOR HARRY MC LANE	✓		
SENATOR CECIL WEEDING	✓		
SENATOR JOHN"J.D."LYNCH	✓		
SENATOR GENE THAYER	✓		

Each day attach to minutes.

EXHIBIT NO. 1
DATE 1/13/89
BILL NO. SB 87

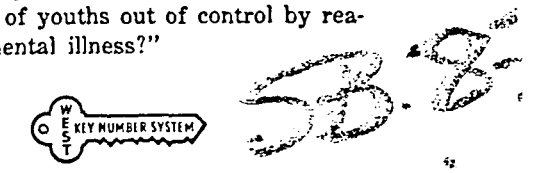
placed in the Montana State Prison or the Swan River Camp under some guise of further treatment. He is not eligible to go to Rivendell in Billings because it does not have security.

The elements of the crime of deliberate homicide in Montana are a voluntary act, (§ 45–2–202, MCA), coupled with either purpose or knowledge (§ 45–5–102, MCA). There is a lapse in logic, therefore, for the Youth Court and the majority of this Court to determine that K.M.H. must be transferred to the adult court for criminal prosecution because he is seriously mentally ill, when in the adult court, because he is seriously mentally ill, he may not be convicted of committing a crime. The majority and the Youth Court have been forced to this illogical position because the legislature has failed to make provision for the proper treatment of crazed youths even though the state constitution requires that laws for the punishment of crimes shall be founded on the principles of prevention and reformation. Art. II, § 28, 1972 Mont. Const.

The consequences are terrible for this 15 year old boy. Without overlooking his killing of one person and his assault with a deadly weapon upon another, we may note that historically no civilized governmental entity holds a person responsible for criminal conduct resulting from a lack of substantial capacity to appreciate the criminality of his conduct or to conform his conduct to the requirements of the law. American Law Institute, Model Penal Code, § 4.01(1) (1962). Yet Montana, in 1979, removed that defense from our criminal statutes, and placed it in the power of psychiatrists to opine to the jury whether the defendant had the particular state of mind which is an element of the offense charged. Section 46–14–213, MCA. (See my dissent in *State v. Korell* (Mont.1984), 690 P.2d 992, 1005, 41 St.Rep. 2141, 2156.) The likelihood is that this 15 year old boy will be sentenced to a long prison term in the adult court, and that facially, treatment for his mental condition will be ordered, but very little received. In the meantime, he will be subjected to the company of male prisoners, half again, twice and three times his age. In the adult court it is even possible for him to receive a death sentence. In light of his immature age, his recognized mental illness, the bleak prospect of adequate treatment for him and his long years of prison life, it is almost not too callous to ask, "Oh death, where is thy sting?"

In this election year, every legislative candidate and gubernatorial candidate should be asked this important question, "What do you intend to provide for the treatment of youths out of control by reasons of mental illness?"

P51



IOWA MUTUAL INSURANCE COMPANY, Plaintiff,

v.

Jeffrey DAVIS and Curtis Beck, Defendants.

No. 87317.

Supreme Court of Montana.

Submitted Jan. 7, 1988.

Decided March 18, 1988.

United States District Court for the District of Montana certified for determination whether mandatory liability coverage requirements prohibited the exclusion of a named driver or drivers from coverage under a motor vehicle liability policy. The Supreme Court, Gulbrandson, J., held that mandatory liability coverage requirements of statute prohibited exclusion of named driver or drivers from coverage under motor vehicle liability policy.

Question answered in affirmative.

Insurance ⇐435.8(1)

Mandatory liability coverage requirements of statute prohibited exclusion of named driver or drivers from coverage un-

DATE 2-13-89

COMMITTEE ON Business & Industry

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Jacqueline Terrell	American Ins. Assoc.	SB 87	✓ with amdts	
IRENE PHILLIPS	NAII	"	"	
Floor Coe	State Farm	"		
Mary Ellen Maynard	Montana Families	"	✓	
Roger McGlenn	INDEPENDENT INSURANCE AGENTS ASSOC. OF MT	"		
Wally Jewell	MONT. MAGISTRATES ASSOC	"	X	
Lou Ashbrener	State Farm	"	X	

(Please leave prepared statement with Secretary)

HEARING ON HOUSE BILL 16

Presentation and Opening Statement by Sponsor:
Representative Driscoll, House District 92, stated House Bill 16 dealt with legalizing benefits and discounts for senior citizens or any other group. The bill was drafted to deal with laws concerning public accomodations.

List of Testifying Proponents and What Group They Represent:

Ann MacIntyre - Human Rights Commission

List of Testifying Opponents and What Group They Represent:

None

Testimony: Ann MacIntyre said the bill was recommended by the Human Rights Commission. She cited the bill as addressing the situation of offering discounts or benefits to senior ctizens. She pointed out hospitals and transportation as two entities already ofering discounts or benefits to senior citizens. MacIntyre felt the discounts or benefits may be in violation of the existing law. She urged passage of House Bill 16, as it would legalize such practices.

Questions From Committee Members: None

Closing by Sponsor: Representative Driscoll requested the committee's passage, and asked Senator Lynch to carry the bill through the Senate.

DISPOSITION OF HOUSE BILL 16

Discussion: None

Amendments and Votes: None

Recommendation and Vote: Senator Lynch moved House Bill 16 Be Concurred In. Senator McLane seconded. The vote was unanimous.

DISPOSITION OF SENATE BILL 87

Discussion: Mary McCue explained, she had a set of proposed amendments and a copy of Mr. Goe's suggestions for amending the bill. She pointed out the statement of intent referred to a family member living in the home, while the statute did not make that same

distinction. The proposed amendments did not make that stipulation. She said, the amendment state "family member", and she thought the committee should remove the language "Living in the home" from the statement of intent. (See Exhibit #4)

Amendments and Votes: Senator Meyer made a motion to amend, by excluding the suggested language from the statement of intent. Senator Weeding Seconded. Motion Carried.

Senator Meyer moved the amendments (exhibit #4) to the bill. Senator Weeding seconded. The motion carried.

Senator Hager moved to amend the bill by inserting "The policy holder will determine if a family member should be excluded", rather than the insurance company. seconded by Senator Noble. A brief discussion revealed passage of the bill and renewal of policies would take care of that situation. The discussion prompted Senator Noble to withdraw his second, and Senator Hager to withdraw his motion to amend.

Recommendation and Vote: Senator Williams moved Senate Bill 87, including the statement of intent, Do Pass As Amended. Senator Meyer seconded. Motion carried unanimously.

ADJOURNMENT

Adjournment At: 11:38 a.m.

SENATOR GENE THAYER, Chairman

GT/ct

ROLL CALL

BUSINESS & INDUSTRY COMMITTEE

DATE 1-18-89

51st LEGISLATIVE SESSION 1989

NAME	PRESENT	ABSENT	EXCUSED
SENATOR DARRYL MEYER	✓		
SENATOR PAUL BOYLAN	✓		
SENATOR JERRY NOBLE	✓		
SENATOR BOB WILLIAMS	✓		
SENATOR TOM HAGER	✓		
SENATOR HARRY MC LANE	✓		
SENATOR CECIL WEEDING	✓		
SENATOR JOHN"J.D."LYNCH	✓		
SENATOR GENE THAYER	✓		

Each day attach to minutes.

STANDING COMMITTEE REPORT

January 18, 1989

MR. PRESIDENT:

We, your committee on Business and Industry, having had under consideration SB 87 (first reading copy -- white), respectfully report that SB 87 be amended and as so amended do pass:

1. Title, line 8.
Strike: "33-23-203,"
Following: "61-6-103"
Strike: ","

3. Pages 1 and 2.
Strike: section 1 in its entirety
Renumber: subsequent sections

4. Page 7, lines 8 through 12.
Strike: subsection 14 in its entirety

5. Page 7, line 14.
Following: "insurance"
Insert: "-- family member exclusion"
Following: "(1)"
Insert: "(a)"

6. Page 7, line 15.
Strike: "61-6-103(1d)"
Insert: "subsection (b)"

7. Page 7, following line 23.
Insert: "(b) Notwithstanding the mandatory motor vehicle liability insurance protection provided for in subsection (a), nothing in this part may be construed to prohibit the exclusion from insurance coverage of a named family member in a motor vehicle liability insurance policy."

AND AS SO AMENDED DO PASS

Signed: Gene Thayer, Chairman

Statement of Intent attached.

STATEMENT OF INTENT
Senate Bill No. 87

By amending section 61-6-301, MCA, it is the intent of the legislature to expressly permit named driver exclusions in mandatory motor vehicle insurance policies for family members of the policy holder. It is the finding of the legislature that the prohibition against named driver exclusions in the context of the family has the result, in effect, of denying coverage to families who have found their insurance premiums to double or triple due to the Montana supreme court's decision in Iowa Mutual Insurance Company v. Davis, 752 P.2d 166 (1988). In that case, the court held that mandatory liability coverage requirements, as a matter of public policy, prohibited exclusion of a named driver or named drivers from coverage under motor vehicle liability policies."

CLERICAL

S Bill No. 87

Date: 1/19/89

Time:

CR
(Legislative Council Staff)

☑ Business + Industry
(S) H Standing Committee

(Chairman)
THAYER

☐ S / H Committee of the Whole

(Sponsor)

In accordance with the Rules of the Montana Legislature, the following clerical errors may be corrected:

#6 Insert: "Subsection (1)(b)"

#7 Insert: "... subsection (1)(a), ..."

An objection to these corrections may be registered by the Secretary of the Senate, the Chief Clerk of the House, or the sponsor by filing the objection in writing within 24 hours after receipt of this notice.

EXHIBIT NO. 4
DATE 1/18/89
BILL NO. SB 87

Amendments to Senate Bill No. 87
First Reading Copy

Requested by Oliver Goe
For the Committee on Business & Industry

Prepared by Mary McCue
January 17, 1989

1. Title, line 8.
Strike: "33-23-203,"
Following: "61-6-103"
Strike: ","

2. Page 1, following line 9.
Insert: "STATEMENT OF INTENT
By amending section 61-6-301, MCA, it is the intent of the legislature to expressly permit named driver exclusions in mandatory motor vehicle insurance policies for those family members living in the home of the policy holder. It is the finding of the legislature that the prohibition against named driver exclusions in the context of the family has the result, in effect, of denying coverage to families who have found their insurance premiums to double or triple due to the Montana supreme court's decision in Iowa Mutual Insurance Company v. Davis, 752 P.2d 166 (1988). In that case, the court held that mandatory liability coverage requirements, as a matter of public policy, prohibited exclusion of a named driver or named drivers from coverage under motor vehicle liability policies."

3. Pages 1 and 2.
Strike: section 1 in its entirety
Renumber: subsequent sections

4. Page 7, lines 8 through 12.
Strike: subsection 14 in its entirety

5. Page 7, line 14.
Following: "insurance"
Insert: "-- family member exclusion"
Following: "(1)"
Insert: "(a)"

6. Page 7, line 15.
Strike: "61-6-103(14)"
Insert: "subsection (b)"

7. Page 7, following line 23.
Insert: "(b) Notwithstanding the mandatory motor vehicle

liability insurance protection provided for in subsection (a), nothing in this part may be construed to prohibit the exclusion from insurance coverage of a named family member in a motor vehicle liability insurance policy."

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 4
DATE 1/18/89
BILL NO. SB 87

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OLIVER H. GOE
KATHARINE S. DONNELLEY
JON METROPOULOS

*MEMBER OF MONTANA AND THE DISTRICT OF COLUMBIA BARS

January 17, 1989

Ms. Mary McCue
Senate Committee on Business
& Industry
Room 138, State Capitol Building
Helena, MT 59620

Re: Amendments to Senate Bill 87

Dear Ms. McCue:

Enclosed you will find proposed amendments to Senate Bill 87. As you will recall, the various individuals who testified in favor of Senate Bill 87, allowing for named driver exclusions in the context of family vehicle liability insurance policies, expressed a uniform concern that the bill as written will not accomplish its stated purpose. Pursuant to suggestion, I present the proposed amendments for consideration by the Committee. I believe the amendments would carry out the intended purpose, allowing for the exclusion of a family member from coverage under a motor vehicle liability insurance policy and, hopefully, survive judicial scrutiny when challenged.

As you will note from my proposed amendments, I removed in total Section 1 of the bill as proposed. As § 33-23-203 is an anti-stacking provision having little to do with the contents of a motor vehicle liability policy per se, the proposed amendments allowing for family member exclusions are not properly contained therein.

Similarly, I removed in total proposed changes to Section 61-6-103, as contained within Section 2 of Senate Bill 87. Not only do I believe (14) as proposed too restrictive, in that the problem sought to be remedied here normally does not arise where a driver's license has been revoked, suspended or cancelled, as discussed more fully below, I also feel that the amendments to the current law must be contained within § 61-6-301. I would bring your attention to the fact that § 61-6-103 is a portion of what is commonly referred to as the Motor Vehicle Safety Responsibility Act. As summarized in a variety of Supreme Court cases, including Velte v. Allstate Insurance Company, 593 P.2d 454 (1979), and Boldt v. State Farm, 443 P.2d 33 (1967), requirements of this Act only come into play where a motorist has either been convicted or

forfeited bail for one of the driving offenses referred to in the Act, has outstanding unsatisfied judgments or where his driver's license has been cancelled, suspended or revoked.

I strongly believe that the amendments to the current law must be contained within Section 61-6-301, MCA. I would refer you to Iowa Mutual Insurance Company v. Davis, 752 P.2d 166 (1988) and Horace Mann Insurance v. Hampton, No. 88-212 (decided January 11, 1989). In both of these decisions, the Montana Supreme Court clearly held that the public policy of Montana, as evidenced by Section 61-6-301, is that every owner of a motor vehicle operated in Montana must procure a policy of insurance which continuously provides coverage up to the limits set forth in Section 61-6-103, no matter who the driver. Accordingly, in Iowa Mutual and as reaffirmed in Horace Mann, the Supreme Court held that family exclusions, such as that at issue here, are against public policy and thereby unenforceable.

The proposed amendments to Section 61-6-301 would hopefully incorporate into such "public policy" the concept that the owners of a family vehicle can exclude from coverage named family members. Such exclusions would undoubtedly occur most frequently in those situations where you have a multiple vehicle family, with minor or young drivers. It is State Farm's experience that families in such a situation will exclude these higher risk drivers from those policies covering vehicles which the high risk driver does not drive, insuring them on the vehicle they do drive. I also include an amendment to Section 61-6-303, identifying as an exempt vehicle, a vehicle driven by an excluded family member. (I would like to discuss the amendment to Section 61-6-303 with you further. I believe an amendment to this section may be appropriate, however, have had some difficulty in finding the correct language.)

I feel that when the amendments to Section 61-6-301 are passed, simultaneously therewith, a statement of intent should be included. Suggested language might be, "By amending Section 61-6-301, it is the intent of this legislature to expressly permit named driver exclusions in mandatory automobile insurance policies for those family members living in the home. It is the finding of this legislature that the prohibition against such named driver exclusions in the context of the family has, in effect, the result of denying coverage to families who have found their insurance premiums to double and triple due to the Court's decision in Iowa Mutual Insurance Company v. Davis, 752 P.2d 166 (1988), wherein it was held that mandatory liability coverage requirements as a matter of public policy, prohibited exclusion of named driver or drivers from coverage under motor vehicle liability policies." If later challenged in the courts, such a statement of intent would certainly be beneficial in presenting any arguments that

Ex. #4
1/18/89
SB87

named driver exclusions within the family are not only provided for by statute, but consistent with the public policy of the State of Montana as set forth by the legislature.

You will note that in my proposed amendments, I incorporate the $10,000 property damage provision contained within the original bill. In my discussions with State Farm, it is may understanding that almost every carrier in the State of Montana writes policies with this minimum $10,000 limit. I have not incorporated the various grammatical changes to such section. Though I have not explored them in depth, I question their necessity.

Thank you for your assistance and cooperation. Should you have any questions, please feel free to call.

Sincerely,

BROWNING, KALECZYC, BERRY & HOVEN, P.C.

By _____
Oliver H. Goe

/arh/srg
Enclosure

Form CS-32
Rev. 1985

STATUS SHEET

57 ST LEGISLATIVE SESSION

Business & Economic Development COMMITTEE

BILL NUMBER	ENTERED COM. DATE	DATE CONSIDERED	OUT OF COM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMENDED DATE	DO NOT PASS AS AMENDED DATE	BE CONCURRED IN DATE	BE NOT CONCURRED IN DATE	BE CONCURRED IN AMENDED DATE	BE NOT CONCURRED IN AS AMENDED DATE
SB443	2/28	3/9	3/9					3/9			
438	↓	3/9	3/9					3/9			
~~88~~	2/21 ~~3/14~~	3/18 3/20	3/19 3/20					3/19 3/18			
138	2/28	3/13	3/13 TABLED								
207	2/21	3/1	3/14							3/14	
87	2/21 3/8	3/2 3/10	3/7						3/17		
150	2/28	3/2	3/2					3/2			
310	2/28	3/2	3/2					3/2			
298	2/21	3/3	3/3							3/3	
175	2/28	3/3	3/3					3/3			
330	↓	3/3	3/3					3/3			
345		3/3	3/3					3/3			
346		3/3	3/3					3/3			
182	2/28 3/14	3/6 3/20	3/9 3/20							3/9 3/20	

Use a separate sheet for Senate Bills, House Bills, and Resolutions.

these organizations could petition the department of agriculture for an exemption and would have this granted on the volume of business conducted by them.

Rep. Simon asked if the person coming in from out of state would have to pay a fee in each city where they sold produce? Mr. Bjornson said the fee is based on the total amount of gross receipts in the state of Montana and they would only have to pay only one fee. If it would make you more comfortable, Rep. Simon, to have an amendment that indicates it is the gross receipts taken in Montana, I certainly would have no objection to this.

Closing by Sponsor: Sen. Rapp-Svrcek said that he appreciated the hearing the committee has given this bill and I hope you will act upon the bill favorably. I have no problem with the amendment Rep. Simon wants to put in the bill.

HEARING ON SENATE BILL 87

Presentation and Opening Statement by Sponsor:

Sen. Rasmussen, Senate District 22, this bill deals with a narrow point in our insurance law and was brought to my attention by one of my constituents who had a problem which she will tell you about. It does relate to the ability to be able to exclude a family member from an automobile insurance policy. Previously there had been the opportunity to exclude a family member. In March of 1988 there was a decision in the Montana Supreme Court that changed the ability to do this. It doesn't allow a parent to be able to exclude a member living in your home at the time. This bill essentially puts the law back to the way it was before the court decision and does allow the exclusion. There are several changes to the bill. We had to rewrite the bill to achieve what we were trying to achieve. There are a lot of one word changes. Much of it is cleanup language to bring the bill up to the type of language being used now.

Testifying Proponents and Who They Represent:

Mary Maynard, Helena
Oliver Goe, Attorney, State Farm Mutual Insurance Co.
Jackie Terrell, American Insurance Association
Gene Phillips, National Assoc. Independent Insurers

Proponent Testimony:

Mrs. Maynard said the people of Montana are looking for justice. She had trouble with an insurance company this past summer that I think is injustice, because of no exclusionary clauses in insurance. I received a letter from my insurance company this summer that said they were cancelling my insurance because of my son's driving record.

Jim has received 4 tickets, they are cancelling my insurance. I live in my house with my daughter, who is 16 years of age, and Jim, who is 24 years of age. They said as long as Jim lives in the house, you can't have insurance unless you want to pay an additional premium. That amount I had been paying for a 6-month period was $367.40, but the proposed new insurance that I would have to carry if Jim continued to live in my house, was $1,068 for 6 months. I can't afford that kind of increase in my insurance. They told me that as long as Jim is living in your house you cannot have insurance with this company. Jim had 4 tickets which I thought were minor infractions of the law. The insurance company said he has 4 tickets and we consider him a high risk individual and we are not going to give you insurance. Jim said it's okay Mom, I'll just move out, the provision is that if they are in your domicile. I can't kick my daughter out because she is just 16, but what if it had been her driving record? Jim moved, so my daughter and I received insurance. But I feel this was rather an injustice, this law is less than 10 years old, when it was first presented. There have been thousands of insurance policies cancelled since that time. I feel that this is an unjust law and should be changed. Put back the exclusionary rule in the law. This exclusion would be at the parents' consent. The parents would decide to exclude the child and tell them not to drive the car. This would relieve the hardships and anguish on the parents in Montana.

Mr. Goe said they support this bill. We believe that families should have the choice to exclude a family member from being insured on certain vehicles.

Ms. Terrell stated that her association supports this bill.

Mr. Phillips said his association supports this bill and believe it gives Montana families the opportunity to tailor their insurance to fit their needs without exorbitant costs.

Testifying Opponents and Who They Represent:

None

Opponent Testimony:

None

Questions From Committee Members: Rep. Blotkamp asked Mr. Goe if the amendment you want to put in the bill would it be a misdemeanor if I let someone drive who was excluded? Mr. Goe said that if Johnny was excluded from driving the car and continually bugged you to drive the car, and you say okay Johnny go ahead and drive, knowing full well that you have excluded him from driving the car. It seems there

should be some sort of ramifications for that kind of action to prevent or inhibit people from taking that sort of action. There is a need to prohibit or inhibit people from taking this kind of action.

Rep. Steppler asked Mr. Goe if the amendment is put in the bill and it passes, what happens if a minor is driving a car that he is excluded from. Mr. Goe said it depends, if he received consent from his parents to drive, based on the Horace/Mann decision, he would still be covered by the insurance, if he had just taken the car without consent he would not be covered.

Closing by Sponsor: Sen. Rasmussen thinks the amendment that has been proposed is a good amendment to deal with the situation. As far as the bill goes, I think it is obvious there is an injustice and is something that penalizes a lot of families. This is affecting families all over the state and is an opportunity to right something that has really got off track.

DISPOSITION OF SENATE BILL 179

Motion: Rep. Kilpatrick moved BE CONCURRED IN.

Discussion: Rep. Kilpatrick spoke with the superintendent of public instruction and she was upset because of page 2, line 4. The cosmetologists don't want this and public education doesn't want it in the bill and wants it taken out of the bill. She was also concerned about the high school diploma, the GED is so simple to get.

Rep. Hansen thinks a person that doesn't have the get-up and go about them to get the GED doesn't have the get-up and go to be a cosmetologist.

Rep. DeMars said he spoke with Rep. Strizich who is a juvenile probation officer, he said he walks a lot of kids through the GED program, that it is a simple thing to get.

Rep. Hansen said the greatest thing we can do is to require a kid to get their GED. Everything they go to do in life requires it.

Rep. Steppler wants to strike the part about the high school diploma or equivalent and put back in graduate of the eighth grade. If a kid has dropped out school they have a couple years of high school.

Rep. Johnson said taking the GED is not that involved. A high school or community college usually offers 1 or 2 hours an evening over a 6 week period of time, there are self-instructing books for the course, I don't think it is that much of a problem in getting the GED.

DISPOSITION OF SENATE BILL 215

Motion: Rep. Bachini moved BE CONCURRED IN and moved the amendments.

Amendments, Discussion, and Votes: The amendments provide an immediate effective date, on page 1, lines 15 and 25, strikes 6 and inserts 5, page 4, line 9, strikes subsection entirely and renumbers subsequent sections, page 18, line 17, strikes 7 and inserts 6, and page 18 following line 20 inserts new section providing the effective date on passage and approval.

Recommendation and Vote: SB 215 BE CONCURRED IN as amended unanimously.

DISPOSITION OF SENATE BILL 87

Motion: Rep. Kilpatrick moved BE CONCURRED IN and moved the amendments.

Discussion: Paul Verdon went over the amendments to the bill.

Rep. Thomas asked Paul if his own insurance company excludes one of my sons to drive and I allow him to drive then I am guilty of a misdemeanor? Who requested this? Paul said the insurance people drafted them. Rep. Thomas advised the committee not to adopt the amendments. Rep. Thomas said the insurance companies will like this bill. If your son drives the car after you have excluded him, you have no coverage. This is a bad situation, because you ought to be covered no matter who drives the car, even if they are excluded. They should drop you.

Rep. Bachini said this is what happened to the lady that testified. They dropped her, or she had to pay increased premiums.

Rep. Kilpatrick said that is the whole thing, her premium went sky high, out of sight. She said with this bill she could exclude him and not have high premiums.

Rep. Thomas said the bill was okay, but he would not support the amendments.

Rep. Hansen said she agreed with Rep. Thomas. What if an emergency came up where that excluded person had to drive the vehicle to get a family member to the hospital. If he is pulled over, then he isn't covered. Rep. Hansen said this wouldn't keep the fees down.

Amendments, Discussion, and Votes: The amendment vote failed.

Recommendation and Vote: SB 87 BE CONCURRED IN vote failed 5-11.

DAILY ROLL CALL

BUSINESS & ECONOMIC DEVELOPMENT COMMITTEE

51th LEGISLATIVE SESSION -- 1989

Date 3 7 89

NAME	PRESENT	ABSENT	EXCUSED
PAVLOVICH, BOB	✓		
DeMARS, GENE	✓		
BACHINI, BOB	✓		
BLOTKAMP, ROB	✓ late		
HANSEN, STELLA JEAN	✓		
JOHNSON, JOHN	✓		
KILPATRICK, TOM	✓		
McCORMICK, LLOYD "MAC"	✓		
STEPPLER, DON	✓		
GLASER, BILL	✓ late		
KELLER, VERNON	✓		
NELSON, THOMAS	✓		
SIMON, BRUCE	✓		
SMITH, CLYDE	✓ late		
THOMAS, FRED	✓		
WALLIN, NORM	✓		
PAUL VERDON	✓		

ROLL CALL VOTE

BUSINESS AND ECONOMIC DEVELOPMENT COMMITTEE

DATE 3/7/89 BILL NO. SB 87 NUMBER

NAME	AYE	NAY
Bob Pavlovich	X	
Bob Bachini		X
Rob Blotkamp	X	
Gene DeMars		X
Bill Glaser		X
Stella Hansen	X	
John Johnson		X
Vernon Keller	X	
Tom Kilpatrick	X	
Lloyd McCormick		X
Thomas Nelson		X
Bruce Simon		X
Clyde Smith		X
Don Steppler		X
Fred Thomas		X
Norm Wallin		X
TALLY	5	11

Sue Pennington
Secretary

Bob Pavlovich
Chairman

MOTION: Rep Kilpatrick moved be concurred in

Bill Failed

ROLL CALL VOTE

BUSINESS AND ECONOMIC DEVELOPMENT COMMITTEE

DATE _____ BILL NO. 87 NUMBER _____

NAME	AYE	NAY
Bob Pavlovich	X	
Bob Bachini		X
Rob Blotkamp		X
Gene DeMars		X
Bill Glaser	X	
Stella Hansen		X
John Johnson		X
Vernon Keller		X
Tom Kilpatrick	X	
Lloyd McCormick	X	
Thomas Nelson		X
Bruce Simon	X	
Clyde Smith	X	
Don Steppler		X
Fred Thomas		X
Norm Wallin		X
TALLY	6	10

Sue Pennington
Secretary

Bob Pavlovich
Chairman

MOTION: _____

STANDING COMMITTEE REPORT

March 7, 1989

Mr. Speaker: We, the committee on Business and Economic Development report that Senate Bill 87 (third reading copy -- blue) BE NOT concurred in .

Signed: _____
Robert Pavlovich, Chairman

[REP. _____ WILL CARRY THIS BILL ON THE HOUSE FLOOR]

VISITORS' REGISTER

Business COMMITTEE

43 76 87

BILL NO. 150 310 DATE 3/2/89

SPONSOR Rapp-Svrcek Regan Rasmussen Bishop McLane

Please put the bill number. Thanks

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Charles R. Brooks	MT Retail Assoc. Hel	SB 310	
Martin Jacobson	Bd. of Realty Reg.	SB 150	
Oliver Cee	w Industry Site Fun	SB 87	
MARY OLA MAYNARD	27 OLIVE ST. HELENA.	SB 87	
Jim Mahlon	Helena	SB 310	
Tom Hopgood	Mont. Assoc Realtors	SB 205	
Jan Cool	EXXON Company USA	SB 310	
Bob Enke	Town Pump	SB 310	
Mark Staples	Exxon Company USA	SB 310	
LARRY AKEY	MT ASSOC OF LIFE UNDERWRITERS	SB 76	
KATHY ANDERSON	IND. INS. AGENTS ASSOC OF MT	SB 87 SB 76	~~SB 87~~
Thad Nagel	State Auditor's Office	SB 76	
PATRICK DRISCOLL	AMERICAN COUNCIL OF LIFE INSURANCE	SB 76	
GENE PHILLIPS	NAT'L ASSOC. INDEPENDANT INSURERS	SB 87	
ROGER MCGLENN	INDEPENDENT INS. AGENTS ASSOC. OF MT.	SB 87	
Jacqueline Terrell	Amer. Ins. Assoc.	SB 87	w/amdt

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

in just the bars? Rep. Pavlovich said he didn't think that children should be able to go in grocery stores and have them in front of them.

Closing by Sponsor: Rep. Pavlovich said there is a license fee in the bill for distributors, manufacturers, and retailers. There is a good penalty clause also in the bill. A lot of people play punchboards and not the machines. They like them better. I have a lot of little old ladies that lovedto come in my tavern and play the punchboards when I used to have them.

EXECUTIVE ACTION

DISPOSITION OF SENATE BILL 87

Motion: Rep. Bachini made the motion to reconsider SB 87.

Discussion: Steve Browning went over the amendments to the bill and what they did to the bill.

Rep. Blotkamp asked Mr. Browning if there was anything bad about this? The amendments I mean. Mr. Browning said he didn't think there was. If the child takes the car without the parent giving permission, that is auto theft, most parents don't go to the county prosecutor and say I want to prosecute my child or take him/her to court. There might be a parent do this.

Rep. Hansen asked Mr. Browning how an insurance company decided and where do they get the information to cause them to raise the premiums for a driver? Mr. Browning said that every time you get a ticket the insurance company doesn't know about it. What happens is this, if the insurance company receives an accident report they go back and check everybody on the policy, look at their driving records through the department of motor vehicles for any other violations.

Rep. Simon asked Mr. Browning if Johnny used the car with parent permission under the bill now, does it only cover the liability, is the collision and that kind of coverage there? Mr. Browning said that State Farm is writing excluded drivers, but they also have an endorsement on that policy that under it they would insure the excluded driver to the extent of the state required liability. But under the bill if it passes, that endorsement would be dropped. That driver would be excluded from driving and be excluded from coverage. Rep. Simon asked what happens if he drives with permission and what happens if he drives without permission? Mr. Browning said without permission you have coverage for all the first party insured, collision, comp, uninsured motorist, all those, would be insured just like if your car was stolen and in an accident. In terms of the liability it would not be covered

if it were stolen. But you would not be responsible. With consent, if the driver were excluded and you said he could drive, there would be no coverage.

Rep. Simon said it is necessary to provide a mechanism for people to have insurance that they can afford.

Rep. Thomas said he speaks against reconsideration. I have talked with the sponsor of the bill and Mr. Browning and I think the committee did the right thing. There are other ways to remedy this situation. The family can insure, mom, dad, and sister, and have Johnny insured on another policy or with a different company.

Rep. Bachini asked Rep. Thomas if the companies he represents had exclusions provided? Rep. Thomas said they did. Rep. Bachini asked Rep. Johnson if he had to pay more for his oldest daughter to have coverage? Rep. Johnson said he took all his policies to another agent and got coverage for less than his old company wanted him to pay for coverage for his family and oldest daughter.

Amendments, Discussion, and Votes: None

Recommendation and Vote: The motion to reconsider SB 87 failed in an 8-8 vote.

ADJOURNMENT

Adjournment At: 10:00 a.m.

REP. BOB PAVLOVICH, Chairman

BP/sp

5703.min

DAILY ROLL CALL

BUSINESS & ECONOMIC DEVELOPMENT COMMITTEE

51th LEGISLATIVE SESSION -- 1989

Date 3 10 89

NAME	PRESENT	ABSENT	EXCUSED
PAVLOVICH, BOB	✓		
DeMARS, GENE	✓		
BACHINI, BOB	✓		
BLOTKAMP, ROB	✓		
HANSEN, STELLA JEAN	✓		
JOHNSON, JOHN	✓		
KILPATRICK, TOM			✓
McCORMICK, LLOYD "MAC"	✓		
STEPPLER, DON	✓ ☆		
GLASER, BILL	✓		
KELLER, VERNON	✓		
NELSON, THOMAS	✓		
SIMON, BRUCE	✓		
SMITH, CLYDE	✓		
THOMAS, FRED	✓ late		
WALLIN, NORM	✓		
PAUL VERDON	✓		

CS-30

Discussion: None

Amendments, Discussion, and Votes: See the attached 3 pages of amendments.

Recommendation and Vote: HB 746 DO PASS as amended 9-6 vote.

DISPOSITION OF SENATE BILL 87

Motion: Rep. Thomas moved to reconsider the action on SB 87. Rep. Thomas moved BE CONCURRED IN.

Discussion: None

Amendments, Discussion, and Votes: None

Recommendation and Vote: SB 87 BE CONCURRED IN 10-5 vote.

DISPOSITION OF HOUSE BILL 627

Motion: Rep. Simon moved the gray bill DO PASS as amended.

Amendments, Discussion, and Votes: Rep. Bachini said the subcommittee considered two issues, one was the protection for the employees involved in the event of the sale of the liquor stores of Montana and secondly the amendments were minor amendments. Section 43, a new section protects the employee, the department shall give them preference. I have tried to provide something for these employees that would lose their jobs. I think this is very important that the state of Montana do this. The benefit would be the severance pay of $50,000 and the proceeds from the sales would take care of these severance payments. I have been opposed to this bill and the two prior bills because of not having any labor protection, that is why these amendments are being submitted. These provisions for the employees are printed in the gray bill on page 39, section 43, 44, and 45.

Rep. DeMars asked Rep. Bachini if these amendments could be stricken out at any time? Rep. Bachini said it was very possible, the subcommittee voted 2-1, with Rep. Simon voting against it. He had softer amendments and in looking at them, they did nothing for the employees in my opinion. There is no guarantee that these amendments will stay in the bill but I will do everything I can to see that these amendments say in the bill if it goes through.

STANDING COMMITTEE REPORT

March 20, 1989

Mr. Speaker: We, the committee on Business and Economic Development report that SENATE BILL 87 (third reading copy -- blue), with statement of intent included, be concurred in .

Signed: _____
Robert Pavlovich, Chairman

[REP. _____ WILL CARRY THIS BILL ON THE HOUSE FLOOR]

ROLL CALL VOTE

BUSINESS AND ECONOMIC DEVELOPMENT COMMITTEE

DATE 3/20/89 BILL NO. SB387 NUMBER

NAME	AYE	NAY
Bob Pavlovich	X	
Bob Bachini	X	
Rob Blotkamp	X	
Gene DeMars		X
Bill Glaser	X	
Stella Hansen		X
John Johnson	X	
Vernon Keller	X	
Tom Kilpatrick	—	
Lloyd McCormick	X	
Thomas Nelson	X	
Bruce Simon	X	
Clyde Smith		X
Don Steppler		X
Fred Thomas	X	
Norm Wallin		X
TALLY	10	5

Sue Pennington
Secretary

Bob Pavlovich
Chairman

MOTION: Rep Thomas moved be concurred in.